

San Juan Corp.

P.O. Drawer I
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William Tookey, County Administrator
Board of County Commissioners
San Juan County, CO 81433

November 16, 2005

Dear Mr. Tookey:

Further to our meeting yesterday, thank you for the opportunity to provide information for your response to EPA's letter of November 8, 2005.

Prior to our acquisition of the property as a court-ordered settlement, we conducted an environmental examination of the property and made all appropriate inquiry. We reviewed historical records available at that time. We determined that the property had been used as a historic townsite, with other parts of the property having been used for deposition of the American Tunnel mine dumps and the Lead Carbonate mill tailings. We interviewed Sunnyside Gold Corp. regarding the cleanup of these materials in the 1990s, and also about the operation of the water treatment settling ponds, and determined that there had been no known underground storage tanks on the property. Sunnyside Gold Corp. advised us that all the sludges in the water treatment ponds had always passed TCLP tests, and provided copies of the same. Based on a physical examination of the property, we could not determine that areas of the property needed sampling.

Since acquisition of the property, San Juan Corp. has not caused or contributed to the contamination of the Herbert Placer in any manner. EPA's allegation that the eviction of Gold King Mines Corp. from the Herbert Placer "was strongly opposed" by CDPHE is erroneous. The eviction of Gold King Mines Corp. from its lease of the settling pond area of the Herbert Placer was undertaken in conjunction with and in cooperation with the Water Quality Control Division of CDPHE.

After it became apparent in the summer of 2004 that Gold King had ceased any meaningful treatment of the American Tunnel discharge, we requested a meeting with Mr. Mark Pifher, Director of Water Quality Control Division and his staff to address the threat to health human and environment posed by Gold King's imminent abandonment of the water treatment settling ponds in a near-full sludge capacity state. In doing so, and in the consequent eviction proceeding, we were adhering to our obligation to prevent contamination of the Herbert Placer.

The meeting with Mr. Pifher and WQCD staff took place on September 23, 2004. At this meeting, a review of Gold King's failures to adhere to its discharge permit obligations, the potential hundreds of permit violations, including abandonment of operation of the plant as well as abandonment of water sampling for lack of funds, and the lack of technical ability of Gold King to operate the facility was thoroughly reviewed. All participants, while regretful of the ramifications of action, agreed that the situation could not be allowed to continue, and that Gold King's ongoing discharge of untreated/semi-treated waters into the settling ponds would result in non-TCLP materials being generated, and the potential acidification of the very large volumes of the previously generated sludges in the ponds. The staff had prepared prior to this meeting a cease and desist order listing only part of the permit violations. Mr. Pifher signed this at the meeting.

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AT THE SEPTEMBER 23, 2004 WE OFFERED THE USE OF THE PONDS TO WQCD IF THEY DESIRED TO CONDUCT AN EMERGENCY ACTION, OR IF A RESPONSIBLE OPERATOR OF THE WATER TREATMENT FACILITY COULD BE FOUND. Mr. Pifher declined this offer.

WQCD staff further assisted the eviction by providing non-public documents of the permit violations. On October 4, 2004, WQCD staff faxed us an unsigned copy of the Cease and Desist Order, with a cover sheet stating if we needed a signed copy (for the eviction proceedings), it would be provided. We called them, and it was provided the same day. A copy of the fax cover sheet is attached.

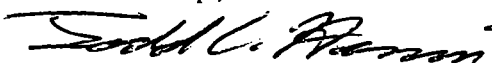
WQCD voiced the concern that the sludges needed to be removed from the site. WQCD was particularly concerned that drying up the sludges after the eviction would result in an airborne source of heavy metals, and therefore offered assistance to San Juan Corp. in the event Gold King and/or Sunnyside Gold Corp. failed to remove the sludges on a timely basis. Such assistance would have been help in securing hazardous waste removal funds, due to the potential airborne problem. Mr. Joe Vranka of CDPHE Waste Unit later confirmed this. Incidentally, it is believed such funds would have been EPA money. Removal of the sludges to a landfill would have cost in excess of \$1 million.

PLEASE ALSO NOTE THAT THE LEASE ON THE SETTLING PONDS WAS ONLY FOR A THREE YEAR PERIOD. This three year period was at Gold King's request to be able to move the settling ponds onto its land and reclaim the settling ponds on the Herbert Placer. At the time of the eviction, Gold King had made no effort to plan to move the ponds onto its land, let alone begin construction, or to even comply with the Cease and Desist Order. From our experience, suitable settling ponds could have been constructed on Gold King property for approximately \$8000 and within four weeks, including time to obtain a county construction permit. Gold King Mines Corp. clearly had no funds to operate the water treatment plant, no location to dispose of the sludges, and no intent to ever move the ponds. IN THE LAST YEAR GOLD KING COULD HAVE CONSTRUCTED SUITABLE SETTLING PONDS TO MEET ITS OBLIGATIONS. IT IS CLEAR GOLD KING NEVER HAD ANY INTENTION TO DO SO.

It is clear to anyone familiar with the situation that Gold King Mines Corp. intended to fill the settling ponds to capacity and then walk away from the property. At the time of the eviction, the settling ponds were 90-95% full. Evidence for this exists in the fact that Mr. Fearn (the principal of Gold King) caused approximately 60,000 tons of mine dumps to be delivered to the Howardsville Mill for his other company to supposedly process, and abandoned these materials for the property owner to somehow reclaim after Mr. Fearn's company defaulted on all of its obligations at the site.. The 60,000 tons of mine dumps (which may have been transported with EPA money) are still sitting at Howardsville, much to the consternation of neighboring homeowners, who are concerned with the airborne pollutant hazard as well as runoff.

We trust this clarifies the facts related to the eviction of Gold King Mines Corp. from the Herbert Placer settling ponds. AT ALL TIMES, SAN JUAN CORP EXERCISED DUE CARE TO PREVENT A RELEASE ON THE HERBERT PLACER OR ANY FURTHER CONTAMINATION. Now that Sunnyside Gold Corp. has spent nearly three months removing the very large volume of sludges from thirty years of operating the Herbert Placer settling ponds, and removing all underlying materials to an impervious layer, removing all soils in contact with the sludges, and reclaiming the site, there is no scope to allege any residual contamination on the site from operation of the ponds.

For San Juan Corp.,



Todd C. Hennis, Pres.

Salem Minerals Inc.

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William A. Tookey, County Administrator
San Juan County Board of County Commissioners
P.O. Box 466
Silverton, CO 81433

**Re: Hebert Placer Targeted,
Brownfields Assessment Application**

December 16, 2005

Dear Mr. Tookey:

Per your request, we are providing you additional information in response to the letter from the U.S. Environmental Protection Agency ("EPA") dated November 8, 2005 responding to the Targeted Brownfields Assessment ("TBA") Application filed by the San Juan County Board of County Commissioners ("County") for the Herbert Placer property located in Silverton, Colorado ("Property").

In its November 8, 2005 letter, EPA requests additional information regarding (1) San Juan Corporation's ("San Juan Corp.") historical involvement with the Property; (2) whether San Juan Corp. conducted "all appropriate inquiries" when it acquired the Property in July 2003 from Sunnyside Gold Corporation ("Sunnyside"), and (3) San Juan Corp.'s subsequent eviction of Gold King from the Property in 2004.

We have addressed the eviction of Gold King in our November 16, 2005 letter. As discussed in our November 16, 2005 letter, Gold King was in violation of its discharge permit issued by the Colorado Department of Public Health and Environment, Water Quality Control Division ("WQCD"). After a meeting with WQCD, San Juan Corp., with WQCD's full cooperation, exercised its legal rights of eviction and stopped the discharge of untreated mine water from entering the Property. Contrary to EPA's assertions, San Juan Corp.'s actions did not cause or contribute to any contamination at the site.

EPA cannot reasonably assert that either the County or San Juan Corp. are potentially responsible parties under CERCLA for the release or threat of release of potential hazardous substances on the Property. Although San Juan Corp. is the current owner of the Property, it had no connection to the Property prior to its acquisition in 2003. It was not, and had no affiliation with any entity which was, a former owner or operator of the Property. It was never an operator,

generator or transporter of any hazardous substance to or from the Property. San Juan Corp. had no affiliation with any historic mining activities in the area. San Juan Corp. only acquired the Property as part of a court ordered settlement in July 2003. Any alleged disposal of hazardous substances took place prior to San Juan Corp. acquiring any ownership interest in the Property.

In addition, prior to acquiring the Property, San Juan Corp. conducted all appropriate inquiries such that it is protected from liability in accordance with CERCLA, §§ 101(35) and 107(b)(3). Such inquiries are evidenced by the attached Phase I Environmental Site Assessment. I can personally attest for the accuracy and sufficiency of this Phase I report as I, personally, conducted and drafted the Phase I report.

As a result of my investigation, interviews, document and geographical reviews and site reconnaissance, my professional assessment was, and remains, that there was no appreciable reason to know of any existing or threatened releases of a hazardous substance at the Property. These findings are well documented in the attached Phase I report. My investigations included interviewing key personnel of Sunnyside, from whom San Juan Corp. acquired the Property. I also interviewed local officials, such as persons from the Mined Land Reclamation Division. I reviewed federal and state environmental databases, title, land use and zoning records, and geographical and historical documents for the purpose of identifying potential environmental concerns or liens. I also walked the Property numerous times conducting site reconnaissance and searching for signs of current or historical contamination. Other than historical areas of deposition of mining waste materials and other operations which had already been removed under a prior consent decree with the state, there were no other physical indications of any past, existing, or potential contamination. Although the Phase I report does not strictly follow the report format suggested under the American Society for Testing and Materials Standard E1527-00, the Phase I report meets the purpose and intent of the "all appropriate inquiries" rule such that San Juan Corp. is entitled to innocent landowner status.

As an experienced environmental professional who has practiced in the metals, mining and chemical industries for more than two decades and conducted site examinations and environmental remediations in the San Juan mining districts over the past fifteen years, I am properly qualified to investigate and recognize potential environmental concerns as required under EPA's "all appropriate inquiries" standard. A more complete statement of my qualifications is attached to the Phase I report.

W. Tookey

[DATE]

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San Juan Corp. is entitled to innocent landowner status because it performed "all appropriate inquiries" into the previous ownership and uses of the Property such that it did not know and had no reason to know of any existing or threatened release of a hazardous substance at the time it acquired the Property. As such EPA cannot deny the TBA Application on this basis. We look forward to working with San Juan County to redevelop the Property and promote economic growth in the county. Please do not hesitate to contact me if you require additional information.

Sincerely,



Todd C. Hennis

bcc: Jeff Hunter, Esq.